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19 and EDWARD SZENDREY

20 **UNITED STATES DISTRICT COURT**

21 **EASTERN DISTRICT OF CALIFORNIA**

22 DARWIN CRABTREE,

23 Case No.: 2:20-cv-00675-KJM-KJN

24 Plaintiff,

25 **JOINT STIPULATION TO MODIFY THE
26 PRE-TRIAL SCHEDULING ORDER TO
27 CONTINUE FACT DISCOVERY;
28 ORDER**

29 v.
30 COUNTY OF BUTTE, KRISTIN
31 MCNELIS, KATHARYN SCHWARTZ,
32 EDWARD SZENDREY, JANE DOE, AND
33 JOHN DOES 1-20,

34 Defendants.

35 _____ / Complaint Filed: 12/10/19

1 **Whereas**, the Court's Initial Pretrial Scheduling Order (ECF 36) set a date of June 21, 2021 for
2 the conclusion of non-expert discovery.

3 **Whereas**, the parties have been diligent in conducting discovery and are currently working
4 together to discuss various outstanding discovery issues. In light of their efforts to resolve as many of
5 these issues as possible without the Court's intervention, the parties still have outstanding third party
6 discovery requests and depositions. For instance, Defendants have issued subpoenas (to produce
7 documents and appear for depositions) to three of Plaintiff's children—who have undertaken a lengthy
8 review of their records in order to respond to Defendants' subpoenas—and the parties have worked
9 diligently together to resolve issues pertaining to those subpoenas without involving the Court. The
10 parties have determined that Plaintiff's children, as third parties, shall be given ample time to respond
11 to the subpoenas. Plaintiff likewise intends to take depositions but understands that Defendant Kristen
12 NeNelis will require additional time due to her role as caregiver to her ailing husband.

13 **Whereas**, the parties believe that they would benefit from an additional 90 days to complete
14 non-expert discovery so that they can provide ample time for third parties to respond to subpoenas and
15 so that they can continue working out their discovery disputes amongst themselves with minimal Court
16 intervention.

17 **Whereas**, because the continuation of the non-expert discovery deadline for 90 days will also
18 impact the remaining deadlines in the Court's Scheduling Order, the parties agree that the remaining
19 deadlines should be modified as follows:

- 20 1. Expert disclosure deadline shall be extended until October 22, 2021;
- 21 2. Expert Rebuttal discovery shall November 26, 2021;
- 22 3. Dispositive Motion deadline shall be on January 14, 2022 with the last day to hear dispositive
23 motions on February 25, 2022;

24 **Whereas**, the parties respectfully submit that good cause exists to grant their request to modify
25 the discovery deadlines because, while the parties have worked diligently to meet their respective
26 discovery needs, they have not been and will not be able to complete non-expert discovery before the
27 current deadline. *See* 6A Charles Alan Wright, Arthur R. Miller & Mary Kay Kane, *Federal Practice*
28 and *Procedure* § 1522.1 at 231 (2d ed. 1990) ("good cause" means scheduling deadlines cannot be met
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1 despite party's diligence); *cf. Noyes v. Kelly Servs.*, 488 F.3d 1163, 1174 (9th Cir. 2007) (finding that
2 district court improperly denied a Rule 16(b) motion to modify the scheduling order where plaintiff
3 diligently pursued discovery but was unable to obtain deposition testimony prior to deadline to file
4 response to summary judgment motion).

5 **Whereas**, the requested extension will not unduly delay this case or prejudice any party, nor is
6 it made for any improper purpose. Rather, the request is made jointly by the parties and in a timely
7 manner. For this additional reason, good cause exists to grant the requested modification to the
8 schedule. *See Ahanchian v. Xenon Pictures, Inc.*, 624 F.3d 1253, 1259 (9th Cir. 2010) (“requests for
9 extensions of time made before the applicable deadline has passed should ‘normally . . . be granted in
10 the absence of bad faith on the part of the party seeking relief or prejudice to the adverse party.’”)
11 (quoting 4B Charles Alan Wright & Arthur R. Miller, *Federal Practice and Procedure* § 1165 (3d ed.
12 2004)).

13 **Whereas**, there have been no previous time modifications to these deadlines in this case.

14 **NOW, THEREFORE, IT IS HEREBY STIPULATED** by and between the parties, by and through
15 their respective counsel of record, that (subject to Court Order):

- 16 1. Non-expert discovery be extended until September 24, 2021;
- 17 2. Expert disclosure deadline shall be extended until October 22, 2021;
- 18 3. Expert Rebuttal discovery shall November 26, 2021;
- 19 4. Dispositive Motion deadline shall be on January 14, 2022 with the last day to hear dispositive
20 motions on February 25, 2022;

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1 Dated: May 17, 2021

PORTER | SCOTT
A PROFESSIONAL CORPORATION

3 By */s/ Matthew W. Gross*

4 Stephen E. Horan

5 William E. Camy

6 Matthew W. Gross

7 Attorneys for Defendants COUNTY OF BUTTE,
KRISTIN MCNELIS, KATHARYN SCHWARTZ
and EDWARD SZENDREY

8 Dated: May 7, 2021

9 EDELSON PC

10 By */s/ Brandt Silver-Korn*

11 Rafey S. Balabanian

12 Todd Logan

13 Brandt Silver-Korn

14 Lily Hough

15 Attorneys for Plaintiff Darwin Crabtree

ORDER

Upon review of the **Joint Stipulation to Modify the Pre-Trial Scheduling Order To Continue Fact Discovery** and **finding Good Cause therefore**, the Court hereby orders that the Initial Pre-Trial Scheduling Order dated August 6, 2020, ECF 36, be modified as follows:

1. Non-expert discovery be extended until September 24, 2021;
2. Expert disclosure deadline shall be extended until October 22, 2021;
3. Expert Rebuttal discovery shall November 26, 2021;
4. Dispositive Motion deadline shall be on January 14, 2022 with the last day to hear dispositive motions on March 4, 2022; and
5. The parties are ordered to file a Joint Notice of Trial Readiness not later than thirty (30) days after receiving this Court's ruling on the last filed dispositive motion. The parties are to set forth in their Notice of Trial Readiness, the appropriateness of special procedures, whether this case is related to any other case(s) on file in the Eastern District of California, the prospect for settlement, their estimated trial length, any request for a jury, and their availability for trial. After review of the parties' Joint Notice of Trial Readiness, the Court will issue an order that sets forth new dates for a final pretrial conference and trial.

IT IS SO ORDERED.

DATED: May 17, 2021.

CHIEF UNITED STATES DISTRICT JUDGE